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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFF TAYLOR BREAZEALE,

Defendant and Appellant.

D053478

(Super. Ct. No. SCN234701)

APPEAL from a judgment of the Superior Court of San Diego County, Aaron H. Katz, Judge. Affirmed.

Jeff Taylor Breazeale entered negotiated guilty pleas to robbery (Pen. Code, § 211)<sup>1</sup> and residential burglary (§§ 459/560). In connection with the robbery count, Breazeale also admitted he acted in concert with two or more other persons within the meaning of section 213, subdivision (a)(1)(A). In connection with the burglary count, Breazeale admitted that a person other than an accomplice was present in the residence

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<sup>1</sup> Statutory references are to the Penal Code.

during the commission of the crime within the meaning of section 667.5, subdivision (c)(21). Under the plea bargain, a false imprisonment by violence count and a conspiracy count were dismissed. The trial court sentenced Breazeale to the midterm of six years on the robbery count, and stayed a four-year term on the burglary count pursuant to section 654.

Breazeale did not obtain a certificate of probable cause.

### FACTS

On August 19, 2007, Breazeale and three companions committed a home invasion robbery of a residence in the unincorporated area of Poway. The quartet had been smoking marijuana and Breazeale telephoned a source to get more marijuana. The source said he was busy with family activities and was not available. Breazeale and his three companions drove to the source's home. Breazeale walked up to the front door and, when the source's father (hereafter homeowner) answered, Breazeale asked if his son was home. Breazeale walked away after the homeowner said the son was not home. Twenty minutes later, one of Breazeale companions, armed with a knife, walked up to the front door. When the homeowner answered the door, the armed man forced his way into the house, and he and another man subdued the father, who was then taped to a chair. Breazeale and the fourth companion had already entered the home behind the armed man, and they went upstairs. At one point, Breazeale came downstairs to watch the homeowner, who asked him to loosen the tape because it was cutting off circulation to his hands. Breazeale told the homeowner to shut up.

Among the items taken in the home invasion robbers were an iPod nano, a Palm Treo cell phone and a Canon camera. The home was also ransacked.

### DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether Breazeale's guilty plea was constitutionally valid; and (2) whether the trial court abused its discretion by denying Breazeale probation and sentencing him to prison.

We granted Breazeale permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Breazeale on this appeal.

### DISPOSITION

The judgment is affirmed.

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NARES, J.

WE CONCUR:

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HUFFMAN, Acting P. J.

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McINTYRE, J.